

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6049 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GOPALBHAI TRIKAMBHAI DALWADI

Versus

DISTRICT REGISTRAR

Appearance:

MS KJ BRAHMBHATT for Petitioner
MRS HARSHA DEVANI, AGP FOR THE STATE
MR UM TRIVEDI for Respondent No. 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 08/08/96

ORAL JUDGEMENT

1. By way of this Special Civil Application, the petitioner has challenged the certificate dated 17.12.1988 issued by the District Registrar for recovery of the sum of Rs 49,919/-.

2. The petitioner is the owner of land bearing survey No.534 and 734 situated at village Sapakada, Tal.Halvad, Dist.Surendranagar. He has taken loan for Rs 6,889/- for financing the crop. However, he could not pay the amount due to the failure of monsoon. It is also submitted that the petitioner is extremely poor person and he is not in a position to make the entire payment at a time. It was further submitted that the amount calculated is highly exaggerated.

3. Considering the fact that the loan was taken for the crop by the petitioner as an agriculturist and he could not make the payment because of drought, in my view, the ends of justice would meet if an appropriate directions are given to allow the petitioner to make the payment in easy instalments and further, the payment of penal interest is relaxed to reasonable extent. Considering the facts of this case, following directions are given :

- (a) The petitioner pay a sum of Rs.5,000/- on or before 13/08/1996.
- (b) The petitioner shall pay a sum of Rs 10,000/- on or before 31st March 1997.
- (c) The petitioner shall pay a sum of Rs 15,000/- on or before 31st March 1998.
- (d) The petitioner shall pay the balance of Rs 15,000/- on or before 31st March 1999.
- (e) If the petitioner commits two consecutive defaults in payment of the aforesaid instalments, he will forfeit the indulgence given by this Court and it will be open for the respondents to proceed with the recovery and further, they will also be entitled to interest on the amount due from 1st August, 1996 payment of the aforesaid instalments.
- (f) The Collector, Surendranagar is directed to waive charges of the attachment.
- (g) In case of any difficulty, it will be open for either of the parties to approach this Court.

4. This Special Civil Application is disposed in the aforesaid terms. Rule made absolute to that extent.

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